USMC
VWAP Overview 2010

VWAP: PURPOSE & GOALS

- Ensure that victims and witnesses receive appropriate response and assistance
- Protect victims from further harm or hardship
- Ensure all victims are aware of their rights and are provided services they need
- Employ a multi-disciplinary approach to assisting victims and witnesses by combining the services of law enforcement, family advocacy, medical, legal corrections, and command personnel.

VICTIM AND WITNESS ASSISTANCE PROGRAM (VWAP) - REFERENCES

- Victim Witness Protection Act of 1982 – establishes VWAP
- Victims of Crime Act of 1984 – DOJ funded/Victims have fund
- Crime Control Act of 1990 – Victims right to information about offenders
- NDAA 1994 – mandates notification of inmate status changes
- 18 U.S.C. § 3771(a) "Justice for All Act of 2004" – most recent
- DoDD 1030.1 of April 13, 2004 "Victim and Witness Assistance"
- DoDI 1030.2 of June 4, 2004 "Victim and Witness Assistance Procedures"
- SECNAVINST 5800.11B of 5 Jan 2006 "Victim and Witness Assistance Program"
- MCO P5800.16A (LEGADMINMAN) Chapter 6 – currently in for revision

VWAP: Crime Victims Eligible for VWAP Services

- Military members and dependents.
- Outside the Continental U.S. - DoD civilian employees, contractors, and family members.
- If victim is under 18, incompetent, incapacitated, or deceased, the term includes either: spouse, guardian, parent, child, sibling, family member, or another person designated by court.
- Authorized representative of Institutional Entity – but not entitled to individual services – such as, transitional compensation, etc.

VWAP: VICTIMS' RIGHTS

- The right to be reasonably protected from the accused.
- The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused.
- The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.
- The right to be reasonably heard at any public proceeding involving release, plea, sentencing, or any parole proceeding.
- The reasonable right to confer with the attorney for the Government in the case.
- The right to full and timely restitution as provided in law.
- The right to proceedings free from unreasonable delay.
- The right to be treated with fairness and with respect for the victim's dignity and privacy.

VWAP: VICTIMS' RIGHTS

- *Victim's rights do not provide authority for a legal "cause of action" against the Government.*

VWAP: Witnesses eligible for services

- A person who has information or evidence about a crime, and provides that knowledge to a DOD Component about an offense in the investigative jurisdiction of a DOD component.
- When the witness is a minor, a witness includes a family member or legal guardian.
- The term witness does not include a defense witness or an individual involved in the crime as a perpetrator or accomplice.

VWAP: WITNESS' RIGHTS

- To be treated with fairness and respect for the witness's dignity and privacy.
- To be reasonably protected from the accused.
- To be notified of any scheduling changes which will affect their appearance at court-martial.
- To be notified of the apprehension of an accused, the initial appearance of an accused before a military judge, the release of the accused pending court-martial, and trial proceedings (including entry of guilty pleas and sentencing).
- To receive information about the conviction, sentence, confinement, and release of the accused.

VWAP: WITNESS' RIGHTS

- *Witness' rights do not provide authority for a legal "cause of action" against the Government.*

VWAP: DOD POLICY

- Role of victims/witnesses should be enhanced/protected
- Do all that is possible to assist victims/witnesses without infringing on the rights of the accused
- *Particular attention to victims of serious, violent crime, including sexual assault, child abuse, and domestic violence.*

VWAP: HOW IT WORKS

- Base and Installation commanders are responsible for implementing VWAP and shall be the central points of contact for VWAP issues aboard the installation.
- Base and Installation Commander manage through Victim Witness Liaison Officer (VWLO), VWAP Council and VWAP Coordinators for commands.

VWAP OFFICIALS

- USMC - SJA to CMC (JAM)
- CMC (JAM) provides DoD VWAP Council Rep
- CMC (PSL) Corrections
- Installation commanders – VWAP Liaison Officer (VWLO)
- Unit commanders – Bn/Sq and above – VWAP Coordinator
- Law enforcement - VWAP Representative
- Legal representatives - VWAP Representative
- Corrections Personnel - VWAP Representative
- Service providers (advocates, chaplain, medical) - VWAP Representatives

VWAP: COORDINATION IS KEY

- "All offices responsible for a part of the criminal justice process (including, but not limited to, law enforcement and criminal investigative agencies, convening authorities, legal, corrections) are responsible for ensuring a smooth transition of victim and witness assistance at each stage of the criminal justice process. *This means that close coordination is required among the VWAP personnel assigned to each of these offices during the transition from one phase of the criminal justice process to the next."*
- Ensure right contact information is given on each DD Form to each Victim or Witness
- Ensure continuing coverage for Victims/Witnesses of services and rights.

VWAP: WHO DOES WHAT?

- Base/Installation Commanders manage base programs
- NCIS/CID/PMO normally have first responsibility to inform crime victims and witnesses of rights under program
- Prosecutors and legal personnel have continuing responsibility to ensure rights and services afforded.
- Corrections personnel manage post-trial confinement forms, reports and notifications and coordinate with other offices
- Other service providers/offices support VWAP by close coordination and knowledge of services and rights

VWAP: Pretrial & DD Form 2701

- NCIS/CID/PMO provide V/Ws with DD Form 2701
- If no investigation – Prosecution team provides DD Form 2701
- 2701 provides initial rights advisement, discusses impact of various crimes, explains basic services and notifies V/W where to get further assistance

VWAP: Military Trial Process & DD Form 2702

- Upon first contact with victim or witness, prosecution provides DD Form 2702
- DD Form 2702 explains military trial process, gives tips and restates rights.
- 2702 includes rights regarding participating in trial process.
- 2702 provides VWAP responsible official contact information and prosecutor contact information

VWAP: Post Trial & DD Form 2703

- Prosecution provides victim or witness with DD Form 2703 at finish of trial.
- Includes “Right to receive information about the conviction, sentencing, imprisonment, parole eligibility and release of the accused”
- Provides Contact info for Service Central Repository *(CMC PSL (Corrections)),* Confinement Facility, Service Clemency and Parole Board and any other necessary agency/office
- *“From now on, your POC will be the confinement facility or the Service Central Repository listed on the back of this page.”*

VWAP: Post Trial & DD Form 2704

- TC provides brig with DD Form 2704 at finish of trial.
- Requires election by each V/W whether to receive information on confinement status

VWAP: Post Trial Notifications & DD Form 2705

- Corrections personnel ensure notifications made to V or Ws listed on DD Form 2704
- Clemency Eligibility
- Parole Eligibility
- Change in status – Parole/Clemency Approved, Released, Deceased, Escaped, Transferred, Work release

VWAP: RESOURCES AND FORMS

- CMC (JAM) – Major B. C. Parsons (703) 614-4250; breven.parsons@usmc.mil / Capt B. W. Barnett brandon.w.barnett@usmc.mil
- CMC (PSL Corrections) (703) 614-1480
- Installation Victim Witness Liaison Officers (VWLO)
- http://www.defenselink.mil/vwac/dodprograms.html (DOD VWAP COUNCIL WEBSITE) – contains link to training presentations and forms
- http://www.ncvc.org/ncvc/Main.aspx (National Center for Victims of Crime)
- http://www.ojp.usdoj.gov/programs/victims.htm (DOJ Office for Victims of Crime)

SUMMARY

- Victims/Witnesses of Crime deserve protection and assistance
  - Assists recovery
  - Improves Criminal Justice System at Large
- Interdisciplinary Program
- Coordination is Key
- Base Commanders own Local Base Programs
- All agencies have a role